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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Geographic Partitioning and )  
Spectrum Disaggregation by )  
Commercial Mobile Radio )  
Services Licensees )

WT Docket No. 96-148

Implementation of Section )  
257 of the Communications )  
Act -- Elimination of Market )  
Entry Barriers )

GN Docket No. 96-113

REPLY COMMENTS OF  
THE INDEPENDENT ALLIANCE

The Independent Alliance<sup>1</sup> hereby submits reply comments to the Commission's *Further Notice of Proposed Rulemaking (FNPRM)*. In this proceeding, as in other spectrum matters, the Independent Alliance urges the Commission to consider and implement the Commission's statutory mandate to ensure prompt delivery of wireless services to rural areas, and to ensure that rural telephone companies are given the opportunity to participate in the provision of spectrum-based services. In support thereof, the following is shown:

The Commission is charged by Section 309(j) of the Communications Act of 1934, as amended, to provide rural telephone companies with the opportunity to participate in the

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<sup>1/</sup> The Independent Alliance is a group of rural telephone companies that share a common interest in providing wireless services to rural subscribers residing in areas with communities of interest associated with their wireline service areas.

provision of spectrum-based services.<sup>2</sup> The Commission has, with regard to GWCS, fulfilled this mandate through policies granting exclusively to rural telcos rights to partitioned spectrum.<sup>3</sup> When adopting this policy, the Commission referenced the partitioning rules developed and implemented for cellular and PCS.<sup>4</sup>

The PCS policies were developed to meet the dual objectives Congress set forth in Section 309(j): to provide for rural telcos the opportunity to participate in the provision of wireless services, and to speed deployment of new wireless technologies to rural areas.<sup>5</sup> The Commission noted that the existing infrastructure of rural telcos is "well suited" to the rapid introduction of PCS into rural areas, which "tend to be less profitable to serve for companies without existing infrastructure than more densely populated urban areas."<sup>6</sup> To fulfill its statutory mandate, the Commission created a plan of geographic

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<sup>2/</sup> 47 U.S.C. § 309(j).

<sup>3/</sup> In the Matter of Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use -- 4460-4685 MHz: Second Report and Order, ET Docket No. 94-32, 11 FCC Rcd 624, at para. 105 (rel. Aug. 2, 1995).

<sup>4/</sup> Id.

<sup>5/</sup> See 47 U.S.C. § 309(j); see also In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding: Second Report and Order, PP Docket 93-253, 9 FCC Rcd 2348, at para. 243 (rel. Apr. 20, 1994).

<sup>6/</sup> In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding: Fifth Report and Order, PP Docket 93-253, 9 FCC Rcd 5532, at para. 149 (rel. Jul. 15, 1994) ("Fifth R&O").

partitioning that allows rural telcos to acquire spectrum to serve areas reasonably related to their wireline service areas.<sup>7</sup>

Before the promise of these policies could be realized, the Commission adopted changes in PCS partitioning policies. This action is the subject of a Petition for Reconsideration pending before the Commission, as well as a case before the United States Court of Appeals.<sup>8</sup> The Independent Alliance respectfully urges the Commission to consider carefully its statutory mandate and adopt for the GWCS spectrum policies which clearly fulfill the Congressional mandate with which the Commission has been charged -- ensuring that rural telcos have the reasonable opportunity to partitioned spectrum in the areas that correspond to their wireline service areas.

Respectfully submitted,

  
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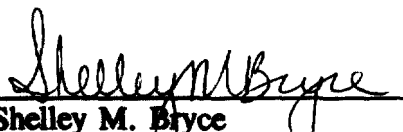
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<sup>7</sup>/ Id. at para. 151.

<sup>8</sup>/ See In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees: Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers: Petition for Reconsideration of the National Telephone Cooperative Association and the Independent Alliance, WT Docket No. 96-148, GN Docket No. 96-113 (filed Feb. 5, 1997); see also Rural Telecommunications Group v. FCC, Case No. 97-1077 (D.C. Cir.) (filed Feb. 5, 1997).

## **CERTIFICATE OF SERVICE**

I, Shelley M. Bryce, hereby certify that a copy of "Reply Comments of the Independent Alliance" was served on this 25th day of February 1997, by first class, U.S. mail, postage prepaid, to the following parties:

  
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